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ORGANIZATION OF THE WORK OF THE SESSION

Note by the secretariat

1. On 18 March 2002, a letter was received by the Chairperson of the fifty-eighth session of the Commission on Human Rights from the Permanent Representative of Indonesia to the United Nations Office at Geneva. Attached to the letter was a copy of a note verbale dated 18 March 2002 addressed by the Head of the delegation of Indonesia to the High Commissioner for Human Rights. It was indicated in the letter that the note verbale "purports to clarify the facts pertaining to Indonesia brought up by the High Commissioner at the opening of the fifty-eighth session of the Commission on Human Rights". The Permanent Representative of Indonesia requested that the note verbale be issued as an official document of the Commission on Human Rights "in order to dispel any misunderstanding that the members of the Commission might entertain concerning these issues". Pursuant to that request, the note verbale from the Head of the delegation of Indonesia is reproduced in annex I.*

2. On 20 March 2002, during the fourth plenary meeting of the Commission, the High Commissioner for Human Rights orally corrected her statement made on 18 March at the opening of the fifty-eighth session of the Commission. The text of the corrigendum to the opening statement is reproduced in annex II.*

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* Reproduced as received, in the original language only.

Annex I

PERMANENT MISSION
OF THE REPUBLIC OF INDONESIA
TO THE UNITED NATIONS
AND OTHER INTERNATIONAL
ORGANISATIONS
GENEVA

Ref. 191/POL-60/2002

The Head of the Indonesian Delegation to the 58th session of the Commission on Human Rights presents his compliments to the High Commissioner for Human Rights and has the honour to convey to the latter some comments regarding a number of points raised in her statement at the opening of the 58th session of the Commission.

The Head of the Indonesian Delegation was surprised and deeply disturbed by the statement of the High Commissioner for Human Rights on Indonesia which, in our view, misrepresents the facts and fails to take into account three important communications which were sent to the Office of the High Commissioner for Human Rights during the course of last year.

The statement that the jurisdiction of the ad hoc Human Rights Court does not extend to alleged violations committed in East Timor before the August 1999 popular consultation is incorrect, since the Presidential Decree No. 53/2001 restricting the mandate of the ad hoc Court to trying cases which occurred after the popular consultation was rectified and replaced by Presidential Decree No. 96/2001, extending this same mandate to alleged abuses committed both before and after the popular consultation, as originally intended. This last Decree has been in operation since 1 August 2001. These facts had been duly conveyed to the Office of the High Commissioner for Human Rights by the Permanent Mission of the Republic of Indonesia in its Note Verbale 514/POL-168/2001, dated 8 August 2001, and by a letter of the Permanent Representative of Indonesia to the United Nations in New York addressed to the President of the United Nations Security Council on 9 August 2001 as contained in document S/2001/779.

Furthermore, the Head of the Indonesian Delegation would like to express his regret that once again the High Commissioner insisted on establishing a link between the provisions of the agreement between the Government of the Republic of Indonesia and the Office of the High Commissioner for Human Rights on technical cooperation, and her request to expand the jurisdiction of the ad hoc Human Rights Court beyond the dispositions set out in Presidential Decree No. 96/2001. This point had already been brought to the attention of the High Commissioner for Human Rights by the Foreign Minister of Indonesia in a letter forwarded to her by this Mission in Note Verbale 643/POL-204/2001, dated 5 October 2001, giving two reasons as to why such a conditionality was unacceptable to the Government of Indonesia:

- Firstly, quite apart from the fact that this conditionality clearly goes against the spirit of technical cooperation itself, it is also contrary to the letter and spirit of the Exchange of Letters between the Government of Indonesia and the Office of the High Commissioner for Human Rights, which constitutes a binding international agreement.

- Secondly, extending the jurisdiction of the ad hoc Human Rights Court as requested by the High Commissioner is inconsistent with the agreed Chairperson's Statement of the 57th session of the Commission on Human Rights, which refers to alleged cases of violations "leading up to and immediately following the popular consultation held in August 1999 ".

Despite the fact that the Office of the High Commissioner for Human Rights had unilaterally suspended the implementation of the agreement, the Government of Indonesia nevertheless continued to pursue its own efforts to promote capacity-building, including the training of the Indonesian judges to be appointed to the ad hoc Human Rights Courts, through bilateral cooperation with friendly countries.

The above clarifications are designed to dispel once and for all any lingering misunderstanding that has arisen with regard to the statement on Indonesia made by the High Commissioner this morning. Moreover, the Head of the Indonesian Delegation wishes to let it be known that he shall also be forwarding a copy of this Note Verbale to the Chairman of the Commission on Human Rights and shall request that it be issued as an official document.

The Head of the Indonesian Delegation to the 58th session of the Commission on Human Rights avails himself of this opportunity to renew to the High Commissioner for Human Rights the assurances of his highest consideration.

Geneva, 18 March 2002

PERMANENT MISSION OF THE REPUBLIC OF INDONESIA

Annex II

Corrigendum to Opening Statement by the High Commissioner for Human Rights at the opening of the 58th session of the Commission on Human Rights

Before I introduce this report I would like to correct a technical error in my opening Statement to the Commission on Monday. I referred to Presidential Decree 53, of 23 April 2001, establishing the Ad hoc Human Rights Court and I should have mentioned that the decree was revised by Presidential Decree 96 of 1 August 2001. The effect of that revision is that the Ad hoc Human Rights Court may now consider incidents that occurred during the months of April and September 1999. However, Presidential Decree 96 also limited the jurisdiction of the court to only three districts in East Timor, namely, Dili, Liquisa and Suai. The time and geographical limitations on the jurisdiction of the Ad hoc Human Rights Court introduced by Presidential Decree 96 continue to affect the capacity of the court to consider a number of serious incidents reported by the United Nations International Commission of Inquiry on East Timor and by the Indonesian Commission of Investigation into Human Rights Violations in East Timor. These limitations remain a matter of concern.

I met yesterday with the distinguished Ambassador of Indonesia to express my regret for the technical error, which has now been corrected in the official version of my statement.